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Vice President - Federal Government Affairs

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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November 19, 1997

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, NW, Room 200
Washington, DC 20554

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Re: Proposed First Quarter Universal Service
Contribution Factors, CC Docket No. 96-45

FEDERAL COMMUNICATIONS COM
OFFICE OF THE SECRETARY

Dear Ms. Salas:

AT&T Corp. ("AT&T") submits the following comments on the Commission's Public Notice, No. 97-2392, released November 13, 1997, and the recent submission of the Universal Service Administrative Company ("USAC") report¹ on which it is based, along with a request for specific Commission action. In its submission, USAC projects the funding requirements for the programs supported by the new Universal Service Fund ("USF") and proposes the contribution factors based on the revenue amounts reported on the USF Worksheets (FCC Form 457) required to be filed by all interstate telecommunications service providers with retail revenues exceeding a de minimis \$100 amount.

USAC's submission starkly demonstrates that even before the new "competitively neutral" USF program has taken effect, it appears to be plagued by gaming of the process. As USAC admits, in some instances, it held aside from its computation of the contribution base revenues that were, in fact, reported. Additionally, AT&T is concerned that there appears to be no clearcut compliance plan to ensure that

¹ USAC Federal Universal Service Programs Fund Size Projections and Contribution Base for First Quarter 1998, October 31, 1997, as amended, by Letter, dated November 13, 1997, from William Stern, NECA, to Secretary, FCC.

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entities that were required to file USF Worksheets have done so or have not under-reported their retail telecommunications revenues, with the result that the contribution amounts for entities that duly reported their revenues are higher than they should be. Given the magnitude of the dollars involved in the USF and its impact on consumers, it is imperative that the Commission ensure full compliance with its program. Indeed, the possibility that some parties failed to properly submit USF Worksheets, coupled with USAC's unauthorized exclusion of reported revenues, highlights the crucial need for prompt and strict enforcement of reporting requirements and FCC oversight of USAC to ensure a sustainable, competitively neutral USF program.

Accordingly, AT&T urges the Commission to investigate USAC's submission and take various other measures, including conducting a compliance audit and imposing an accounting order before any contribution payments are due, to ensure that parties who did file correct USF Worksheets will receive appropriate credits toward future USF contribution obligations and that those entities which were required to file, but disregarded their filing duty or understated their retail revenues, will be mandated to contribute at appropriate levels.

AT&T requests the Commission to make publicly available the list of entities filing USF Worksheets. This will enable interested parties to determine whether entities known to be interstate providers of telecommunications services have submitted USF Worksheets. At a minimum, the USF Form 457 filing list should be compared to the list of entities filing TRS Worksheets to determine contribution status. The Commission's orders already contemplate this, but there is no evidence that the TRS Fund information that NECA is permitted to share with USAC for purposes of identifying USF contributors is being used to determine compliance with USF contribution requirements.²

² Changes to the Boards of the Directors of the National Exchange Carrier Association, Inc.;
Federal-State Joint Board on Universal Service,
 CC Docket Nos. 97-21 and 96-45, Order on
 Reconsideration, Second Report and Order, and
 Further Notice of Proposed Rulemaking, FCC 97-292,
 released August 15, 1997, paras. 2, 13-14.
 (authorizing NECA, as TRS administrator, to make
 available to USAC, certain TRS Fund information,
 consisting of the names, addresses, contact persons,
 type of business, and other non-financial,
 identifying information relating to TRS Fund

The Commission should also move forward on determining possible under-reporting of revenues by filing entities. AT&T requests that the Commission make publicly available the total retail revenues for each reporting entity used as a basis for calculating the USF assessment. Disclosure of these gross amounts would not reveal any proprietary information of the reporting entities, but would enable the industry to assist the FCC in identifying any glaring cases of under-reporting. The Commission should also direct USAC to create composite USF Worksheets by industry segment (IXC, LEC, Wireless, Reseller, CAP, Payphone Aggregator, Private Provider, etc.) and make that information available to the public. Because the composite Forms 457 would constitute aggregate data, no individual contributor's information would be disclosed. As the Commission indicated in the *Universal Service Order*³ (para. 848), although it does not currently collect data regarding end-user telecommunications revenues, it will be able to develop such a database relatively quickly and "will be able to identify inaccurate end-user revenue filings based on revenue information in [its] existing databases." Public disclosure, along the lines suggested, will assist in this endeavor.

Moreover, as USAC admits (p. 23 n.38), it excluded the USF Worksheets filed by some colleges and universities "from the count of forms processed and the revenue bases reported" for purposes of calculating the first quarter 1998 USF contribution factors. This unilateral exclusion is clearly improper and taints the integrity of the program.

AT&T is also concerned that the Commission's decision to base contribution factors on 98 percent of reported revenues "to account for possible uncollectible

(footnote continued from previous page)

contributors for purpose of identifying USF contributors to whom FCC Forms 457 will be sent).

³ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 97-157, released May 8, 1997, and published in the Federal Register on June 17, 1997 (62 Fed. Reg. 32862), pets. for review pending sub nom. Texas Office of Public Utility Counsel v. FCC, Nos. 97-60421 et al. (5th Cir.) ("Universal Service Order"), id., Order on Reconsideration, FCC 97-246, released July 10, 1997; Second Order on Reconsideration, FCC 97-253, released July 18, 1997.

contributions and possible errors in the projections of demand and administrative expense"⁴ is unnecessary given that the quarterly recomputation of demand and costs has a self-correcting effect. Certainly, for carrier contributors, the two percent uncollectible factor is far too high, and further penalizes those carriers that duly reported their revenues. Accordingly, the Commission should use the full reported revenue base for purposes of setting the contribution factors. If this is not done, then retail end user rates overall would increase by a corresponding amount.

In sum, the Commission should immediately take the following steps. First, it should make the list of entities filing USF Worksheets publicly available, along with their total retail telecommunications service revenues, as shown on Line 48(a) of FCC Form 457. Second, it should direct USAC to create composite USF Worksheets by industry segment and make those publicly available. Third, it should audit the USF Worksheet filing process to determine which entities failed to file and which under-reported retail telecommunications revenues and take appropriate enforcement action against entities in noncompliance. Fourth, the Commission should direct USAC to include all reported retail telecommunications revenues in the USF contribution base, and mandate that, in the future, USAC not exclude any such revenues, unless directed to do so by Commission order. Fifth, the Commission should eliminate the two percent offset for uncollectibles and projection errors and then recompute the contribution factors using the full amount of reported revenues. Sixth, after compliance audit, the Commission should again recompute contribution factors, once all reported retail telecommunications revenues are identified. Finally,

⁴ Although \$35.001 billion is the reported interstate and international revenue contribution base figure, the proposed contribution factors are based on 98 percent of that amount. Public Notice, p. 3.

and prior to the due date of any USF payments, the Commission should impose an accounting order to ensure that once entities who failed to file are identified and their USF Worksheets are submitted, those contributors who overpaid are made whole. Thus, the accounting order should expressly specify that contributors will be provided refunds with interest as a credit against future USF payment obligations and that parties who should have contributed, but failed to contribute, will be required to do so retroactively with interest.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "R. D. Bailey". The signature is written in dark ink and is positioned to the right of the "Respectfully submitted," text.

cc: Diane Law
Timothy Peterson
Peyton Wynns